

# Oasys Giraphe - Terms of Use

## 1 Background

Thank you for visiting our Terms of Use which together with any User Plan and Special Conditions constitute the **(Agreement)**, we are [Oasys Limited] (**Oasys, we, our, us** and other similar terms). We provide access to the Oasys Giraphe software platform (**Giraphe**) referred to in the User Plan which you have agreed to with Oasys Limited.

You may only use Giraphe if you have a User Plan which grants you the right to use Giraphe subject to these Terms of Use.

## 2 Agreement

By using Giraphe, you agree to comply with and be legally bound by the terms and conditions of the Agreement. If you do not agree to these terms, you have no right to continue using Giraphe and you must cease use of it immediately.

This Agreement may contain Special Conditions as set out in the User Plan. Special Conditions operate as terms in addition to terms contained in these Terms of Use. If there is any inconsistency between any Special Condition in the User Plan and a term of these Terms of Use, the effect of the Special Condition prevails to the extent of that inconsistency. If there is any inconsistency between any Special Condition in the Support Document and any other Term in the User Plan, the effect of the Special Condition prevails to the extent of that inconsistency.

## 3 Term

The Agreement will commence when you first use Giraphe and will continue for 1 year (or, if applicable, such alternate term as may be set out in the User Plan) (**Subscription Period**) or until the date of termination of this Agreement in accordance with clause 11.

If the Agreement is not terminated in accordance with clause 11, at least 2 weeks prior to the expiry of the then current Subscription Period, the Agreement will automatically renew for a period equal to the current Subscription Period.

## 4 Licence

We grant you (and, if you are an entity, those of your employees who are authorised by you to use Giraphe in accordance with the User Plan) a non-transferrable, non-sublicensable, non-exclusive and revocable licence to use Giraphe for your own internal business purposes during the Subscription Period, subject to the terms and conditions of this Agreement.

We reserve the right to limit or suspend your licence to access Giraphe if you fail to pay any Giraphe usage fee set out in the User Plan (**Subscription Fee**), or if in our reasonable opinion, you are in breach of any of the terms of or warranties given in the Agreement. Suspending your account will not constitute a breach of this Agreement by us, nor will it alter your obligation to pay the Subscription Fee.

## 5 Payment

If applicable under the User Plan we will provide you with a tax invoice for the Subscription Fee, which you agree to pay in accordance with the Payment Terms. Otherwise, you will pay the Subscription Fee in accordance with the Payment Terms and the User Plan. You are solely responsible for the payment of any duties or taxes which apply.

## Your use of Giraphe

### 6.1 Registering an Account

In order to use Giraphe, you are required to create an Account with us. You warrant that all of the information you provide to us is accurate and complete in all respects and you will inform us by updating your Account details whenever any such information changes. We reserve the right to reject, suspend or terminate any Account in our absolute discretion at any time.

### 6.2 Account security

You agree not to disclose or make available your Account credentials to another person or permit others to access Giraphe using your Account. You are responsible for the activities undertaken using your Account, whether or not such activities are authorised or known by you or not.

### 6.3 Fair and Lawful use of Giraphe

You undertake not to upload, store or access any data on Giraphe, or undertake any activity if such access, storage or activity would infringe a person's intellectual property right, breach any Privacy Law or breach any other relevant law or applicable code.

We reserve the right to temporarily disable your Account if your usage significantly exceeds the average usage of other Giraphe users or such other usage criteria as have been agreed in the User Plan (or otherwise in writing). We will contact you before taking any action except in rare cases where the level of use may negatively impact the performance of Giraphe for other customers or for Oasys.

Any tokens provided by us to authenticate and grant access to Giraphe are proprietary to us. Such tokens shall be used solely to access Giraphe as expressly permitted by this Agreement and/or the User Plan, and you shall be responsible for all use under any token issued to you whether authorised or not. Where tokens are required to access Giraphe you shall ensure your usage of Giraphe does not exceed the number of tokens granted to you.

### 6.4 Conduct which is expressly prohibited

You must not and must not facilitate another person to:

- (a) use or include any part of Giraphe in any service offered to third parties, whether or not the service is revenue producing, without our express permission;
- (b) use Giraphe directly or indirectly for any activity, or transmit any information or material unlawfully, or which is unlawful obscene, indecent, uses offensive language, defames, abuses, harasses, stalks, threatens, menaces, or offends any person; or
- (c) use Giraphe in any way which could be reasonably expected to interfere with or damage our systems, any other operator's systems, or another user's enjoyment of Giraphe.

## 7 Support

Support for Giraphe is provided in accordance with the support arrangements as set out on the Giraphe website and/or the User Plan and may vary from time to time.

If it is necessary to interrupt your use of Giraphe, we will endeavour to provide you with reasonable notice (where possible) of when, and the anticipated duration for which, Giraphe will be unavailable.

You acknowledge access to Giraphe may be changed, interrupted, or discontinued for many reasons, some of which are beyond our control and during routine maintenance there may be updates to Giraphe which may change the interface and manner in which it functions.

You agree that we are not liable for any loss, claim, action, damage, cost, payment or expense, foreseeable or not, arising from any interruption to access or use of Giraphe, planned or not, and any such interruptions will not constitute a breach by us of these terms.

## 8 Privacy

When we refer to Personal Information, it shall be defined in this Agreement as to mean information or an opinion about an identifiable individual (not a company), whether or not that information or opinion is true or in a material form (**Personal Information**).

You agree and consent to us handling your Personal Information in accordance with our privacy policy, which is contained and/or referred to in the User Plan.

You warrant you hold consent to use, and for us and our related entities to process, any Personal Information which you upload to Giraphe.

## 9 Intellectual property

We warrant we own or have rights to the intellectual property in Giraphe.

If you provide us with content, including, without limitation, text, photos, images, audio, video and any other materials (**User Content**), you grant us a non-exclusive, worldwide, perpetual, royalty-free, sublicensable, transferable right and license to use, host, store, reproduce, modify and create derivative works of User Content for the purposes of allowing us to provide, improve and protect Giraphe.

You must not, and must not assist, facilitate or permit any person over whom you have effective control to

create an adaptation or translation of all or part of Giraphe in any way.

## 10 Liability and indemnity

Whilst Giraphe has been tested and validated as part of its development process, you acknowledge that it may not be free of errors. You agree that it is your responsibility to check and validate the results of models. By using Giraphe, you confirm that you are suitably qualified and have the required experience to exercise this responsibility

We expressly exclude all conditions, warranties and other terms which might otherwise be implied by any law, regulation, statute, common law, or law of equity except those which statutorily cannot be excluded by law.

Notwithstanding any other term of the Agreement, to the fullest extent possible under the law, we limit our liability for any breach or claim in connection with the Agreement or Giraphe to:

- (a) in the case of goods: the re-supply of the goods or payment of the cost of the re-supply of the goods, or the replacement or repair of the goods or payment of the cost of replacement or repair of the goods; and
- (b) in the case of services: the resupply of the services or the payment of the cost of having the services resupplied.

Notwithstanding anything to the contrary and to the maximum extent permitted by law, we shall not be liable for any Consequential Loss.

You indemnify us and our related entities against all costs, claims, actions, damages, liabilities, losses or other quantifiable amount suffered or incurred by us, however caused, arising wholly or partially, directly or indirectly, in connection with this Agreement or your use of Giraphe, including any costs arising from your breach of this Agreement, your infringement of any third party intellectual property rights associated with this Agreement, any harm to, claim or action by a third party which arise directly or indirectly from your use of Giraphe and your breach of any law including, Privacy Law.

## 11 Termination

Either party may terminate this Agreement by providing the other party reasonable notice in writing. Termination will take effect, at the end of the then current Subscription Period, if the notice is provided at least 14 days prior to the end of the Subscription Period, otherwise it will terminate at the end of the following Subscription Period.

Upon termination you must immediately stop using Giraphe and we reserve the right to permanently erase any data associated with your Account.

## 12 Severability

If any of the terms of this Agreement are judged to be invalid, illegal or unenforceable, the remainder of the terms shall continue in full force and effect and the Parties shall attempt to substitute for any invalid or unenforceable term a valid or enforceable term which

achieves to the greatest extent possible the objectives of the invalid or unenforceable term.

## 13 General

**Assignment** - We may assign, encumber, declare a trust over or otherwise create an interest in or deal with our rights in this Agreement without your consent.

**Entire Agreement** - The Agreement contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by the Agreement and has no further effect.

**Governing law** - The laws of the Jurisdiction govern the Agreement. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

**Variations to the Agreement** - If we make material changes to these terms, we will notify you by email or by posting a notice on the Giraphe site before the changes are effective. Any new features that augment or enhance the current Giraphe service, including the release of new tools and resources, shall be subject to this Agreement unless specified otherwise. Continued use of Giraphe after any such changes shall constitute your consent to such changes. If you do not accept the terms of such variation(s), you may terminate your subscription in accordance with clause 11.

## 14 Definitions

The following expressions used in this Agreement have the following meanings:

**Account** means the username and access credentials used when you access Giraphe.

**Consequential Loss** means indirect or consequential loss not arising as a natural consequence of a breach or other event giving rise to liability of a party, any loss of profits, loss of revenue, loss of any contract value, loss of anticipated profit or damages for lost opportunity or loss of data.

**Jurisdiction** means England & Wales, unless expressly agreed otherwise in the User Plan.

**Payment Terms** mean the requirement to make payment immediately on commencement of this Agreement and each subsequent Subscription Period.

**Privacy Law** means the applicable legislation in the Jurisdiction protecting a person's right to privacy with regard to the processing of their Personal Information.

**Subscription Fee** means the periodic price for the use of Giraphe as set out in the User Plan.

**Subscription Package** means the facilities made available to you via Giraphe as set out in the User Plan and where not set out means all the facilities available via Giraphe.

**You** or any similar terms means the individual or the entity specified in the applicable User Plan which is granted the right to use Giraphe.

**User Plan** means one or more document(s) setting out the Oasys / ARUP entity you are contracting with, the 'Giraphe' platform name, any Subscription Fee payable, any alternate Jurisdiction, and any description of the Subscription Package or Special Conditions which apply, in the form of a:

- (a) a separate signed document between the parties which is expressly stated to be subject to these Terms of Use; or
- (b) published Subscription Package selected on the Giraphe website, along with associated documentation such as emails confirming the details of the Subscription Package selected.